



City Of Raleigh
North Carolina

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May 1, 1996

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RE: Ex-Parte Reply Comments of the City of Raleigh, North Carolina: Raleigh
Telecommunications Commission

Dear Sir:

Please accept the City of Raleigh Telecommunications Commission's ex-parte reply comments in the OVS proceeding before the Federal Communications Commission.

Sincerely,

Robert F. Sepe
Chief of Staff
RTC

data disk copy: Larry Walke

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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In the Matter of)
)
Implementation of Section 302 of)
the Telecommunications Act of 1996) CS Docket No. 96-46
)
Open Video Systems)

Ex-Parte Reply Comments of the City of Raleigh, North Carolina: Raleigh Telecommunications Commission

The City of Raleigh Telecommunications Commission respectfully submits these ex-parte reply comments to the Federal Communications Commission in this proceeding.

I. INTRODUCTION

On March 11, 1996, the Commission released a Notice of Proposed Rulemaking (FCC 96-99) ("Notice"), requesting comment on how it should implement the regulatory framework for open video systems ("OVS"). In response, the National League of Cities, the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the U. S. Conference of Mayors, Montgomery County, and several cities (hereinafter "NLC", filed joint comments containing specific proposals for implementing that framework.

In their comments, NLC identified four key principles that must guide the Commission in formulating its rules. First, the Commission's rules regarding the PEG and other Title VI requirements mandated by Congress for OVS must ensure that OVS operators will meet local community needs and interests. Second, the Commission must adopt nondiscrimination provisions that ensure that all programmers will have truly open and affordable access to OVS and the prevent an OVS from becoming a cable system in disguise. Third, the 1996 Telecommunications Act does not permit cable operators to become OVS operators. Fourth, the Commission's rules must acknowledge the property interests that local governments hold in local public rights-of-way.

The Raleigh Telecommunications Commission strongly supports NLC's comments and urges the Commission to follow these four principles in formulating OVS rules. The Raleigh Telecommunications Commission discusses its experience in creating and implementing PEG obligations that meet critical local needs.

II. DISCUSSION

The Commission's statutory mandate in adopting PEG requirements for OVS is clear. As NLC notes, the Telecommunications Act of 1996 requires the Commission to establish PEG obligations for OVS that are consistent with local needs and interests, and to impose on an OVS operator obligations equivalent to those obligations imposed on cable operators. To fulfill these mandates, the Commission should, as proposed by NLC, require OVS operators "to match or negotiate," that is, to match each incumbent cable operator's PEG obligations, or to negotiate agreements acceptable to the affected communities.

The record in this proceeding demonstrates that local governments - as franchising authorities and PEG programmers - play a critical role in ensuring that local communications needs and interests are met.¹ Moreover, local governments, as the National Cable Television Association states, "are in the best position to deliver on the Act's intent to accomplish PEG access over open video systems"².

In the city of Raleigh, ten [10] years have been required to establish community [PEG access] television. From a single channel humble beginning in 1985, PEG access has grown to encompass two public, one government and one education access channel. This past year 7,882 hours of community television [local event] programs were telecast. Similarly, 6,612 hours of state, county, city, and local government programs were telecast. The Cooperating Raleigh Colleges [Meredith, Peace, Shaw, St. Mary's, and NCSU] televised 3250 hours of self improvement credit and non-credit programs. A recent scientific survey revealed that 61% of cable television viewers knew they could make programs at Community Television for local telecast; 63% believe that Community Television is a First Amendment public expression forum; 75% are aware that government access television presents programs pertaining to local government activities and

¹See, e.g., Comments of the Below-Named Political Subdivisions of the State of Minnesota at 7 (franchising authorities have "considerable experience in successfully negotiating, creating and implementing ... PEG obligations"); Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 34 ("The local franchising authority is the governmental entity best positioned to appreciate community needs and most experienced in the implementation of PEG access rules"); and Joint Comments of Cablevision Systems Corporation and the California Cable Television Association at 21 ("Congress certainly understood that PEG access requirements are now imposed by localities to meet critical localism goals")

² Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 33. See also, Comments of MFS Communications Company, Inc. with the PEG obligations should generally be worked out between the programmer and the local government entity that oversees the implementation of these rules for cable Association, Inc. at 33. See also, Comments of MFS Communications Company, Inc. at 27 ("The manner in which OVS operators and/or their customer programmers comply with the PEG obligations should generally be worked out between the programmer and the local government entity that oversees the implementation of these rules for cable operators")

issues; and, 82% believe that education access television [credit/non credit courses and Homework HOTLINE] provides an important service to the community.

The Raleigh Telecommunication Commission has labored diligently to promulgate policies and procedures to assure Raleigh residents uniform access to information. It is an attempt to level the distribution of political, social and economic speech.

The mission of Community Television and its larger umbrella, PEG access, is to advance democratic ideals by ensuring that people have access to electronic media, and by promoting effective communication, community interaction and community dialogue through low cost pervasive media [e.g. cable television] available as a basic "lifeline" service tier.

Through the community access channels, viewers have passageway to information, the ability to receive and exchange ideas and interweave a fabric of human through throughout a community. This serves to link the diverse and disparate elements within a community and combines the advantage of encouraging conversation on a local level [e.g.: Take A Stand, The Last Word and The Pat Mellon Show].

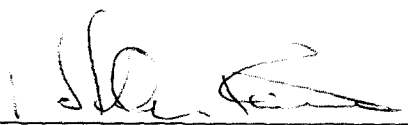
Talk programs, like these, and their callers create dialogue and establish feedback within the Raleigh community. These and other community television programs serve as a mechanism which promotes the free exchange of ideas within our culture

By adopting NLC's proposal, the Commission will ensure that PEG access continues to serve local needs and interests in the city of Raleigh, and will satisfy the Commission's statutory mandate to impose equivalent obligations on OVS and cable operators.

III. CONCLUSION

The City of Raleigh Telecommunication Commission respectfully requests the Federal Communications Commission to adopt a framework for OVS consistent with the proposals and principles recommended by NLC et. al. in their comments.

Respectfully submitted,

By:  5/2/96
H. Thomas Hines, Vice-Chairman
Raleigh Telecommunications Commission

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